

Message Text

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ACTION EB-07

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C O N F I D E N T I A L BOGOTA 3946

EO 11652: GDS

TAGS: EAIR CO

SUBJ: CIVAIR, FUEL PRICE DIFFERENTIAL

REF: A) STATE 060859; B) BOGOTA 3835; C) BOGOTA 11092

SUMMARY. WHILE FUEL TAX ISSUE APPEARS ON WAY TO RESOLUTION, THE VOLUME DISCOUNT QUESTION REMAINS. AVIANCA REPS HAVE DISCUSSED BOTH THIS ISSUE AND THE MATTER OF THEIR ACCESS TO US DOMESTIC FUEL POOL WITH AMBASSADOR. THEY REPEATED PREVIOUS GOC SUGGESTION THAT WE NEGOTIATE THE DISCOUNT ISSUE THROUGH CONSULTATIONS UNDER THE BILATERAL. WE RECOMMEND THAT WE FOLLOW THIS ROUTE; A CONFRONTATIONAL TACTIC THREATENING INCREASED PRESSURE BY DENYING ACCESS TO US DOMESTIC FUEL POOL PROMISES NOT ONLY TO BE INEFFECTIVE ON PRICE QUESTION, BUT TO OPEN UP OTHER PROBLEMS AND THREATEN A COUNTER-ESCALATION THAT WOULD RESULT NOT ONLY IN MAJOR BILATERAL PROBLEMS BUT IN SERIOUS REPERCUSSIONS FOR THE US CARRIERS THEMSELVES. (SEE COMMENT PARA 6-8 BELOW) END SUMMARY.

1. REPRESENTATIVES OF AVIANCA CALLED ON AMBASSADOR APRIL 24 AT THEIR REQUEST TO DISCUSS THEIR EFFORTS TO OBTAIN ADDITIONAL ALLOCATION OF JET FUEL FROM US DOMESTIC POOL. AMBASSADOR USED OPPORTUNITY TO RAISE QUESTION OF FUEL VOLUME DISCOUNTS AND ASKED THEM TO CONSIDER HOW BEST TO RESOLVE THIS QUESTION SINCE IT APPEARED TO USG THAT THE DIFFERENTIAL WAS DISCRIMINATORY, CONFIDENTIAL

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CONSTITUTING A DIRECT SUBSIDY TO THE COLOMBIAN CARRIERS FINANCED

BY THE FOREIGN AIRLINES.

2. AVIANCA REPS ADMITTED THAT DISCOUNT ASSISTED COLOMBIAN CARRIERS, WHICH THEY DESCRIBED AS JUST BEING ABLE TO GET BY IN FACE OF COMPETITION FROM INTERNATIONAL GIANTS. HOWEVER, THEY REITERATED GOC LINE THAT VOLUME DISCOUNTS WERE NOT UNFAIR PRACTICES UNDER EITHER BILATERAL OR CUSTOMARY PRACTICE, AND ALLEGED THAT GOVERNMENTS HAVE A RIGHT TO ASSIST NATIONAL FLAG CARRIERS. THEY CLAIMED THAT USG DOES SAME THING, AND CITED WHAT THEY TERMED WAS DISCRIMINATION AGAINST FOREIGN CARRIERS IN HANDLING OF AIRMAIL BY USG. THEY ALLEGED THAT US POSTAL AUTHORITIES GIVE MARKED PREFERENCE TO US LINES AND DENY SHIPMENTS OF AIRMAIL TO FOREIGN AIRLINES, EVEN TO THE POINT OF DELAYING MAIL SHIPMENTS TO PERMIT US AIRLINES TO CARRY THEM. THIS, THEY ALLEGED, IS A PRACTICE DIRECTLY CONTRARY TO IPU AGREEMENTS AND THE BILATERAL; THEY ADDED HOWEVER THAT NEITHER AVIANCA NOR THE GOC WANTED TO RAISE THESE MATTERS OR CAUSE STRAINS BETWEEN THE TWO COUNTRIES IN CONSEQUENCE. (COMMENT: WE WOULD APPRECIATE DEPARTMENT'S COMMENTS ON THIS ALLEGATION.)

3. IN FURTHER COMMENTS, AVIANCA REPS EMPHASIZED THAT THERE WAS ABSOLUTELY NO RPT NO DISCRIMINATION IN TERMS OF DENYING ACCESS TO AVIATION FUEL IN COLOMBIA. IN THIS REGARD, THE REPS SAID, THEY WANTED TO APPRISE US OF THEIR CONCERN AT THE WAY THEIR REQUEST FOR ADJUSTMENTS IN AVIANCA'S FUEL ALLOCATION BASE WAS BEING HANDLED IN US. ACCORDING TO THEM, AVIANCA ATTORNEYS IN WASHINGTON HAD BEEN CALLED INTO THE DEPARTMENT AND QUOTE THREATENED UNQUOTE WITH RETALIATION, IN THAT IF VOLUME DISCOUNT NOT ELIMINATED AVIANCA'S ACCESS TO US DOMESTIC FUEL MIGHT BE WITHDRAWN. REPS ARGUED THAT IF THIS OCCURED IT WOULD AMOUNT TO DENIAL OF ACCESS OF FUEL. THEY STATED PURCHASING BONDED FUEL WAS NOT A FEASIBLE ALTERNATIVES BECAUSE TRADITIONAL REPUTABLE COMPANIES (TEXACO, EXXON, ETC). HAD INFORMED THEM THAT THEY COULD NOT GUARANTEE A SUPPLY BE AT THE MERCY OF SPECULATORS AND SHADY OPERATORS OR WOULD HAVE TO REDUCE OPERATIONS. (WE WOULD APPRECIATE DEPARTMENT'S COMMENT ON THIS AFFIRMATION). COLOMBIA DOES NOT HAVE A BONDED FUEL SYSTEM, AND THEREFORE, THEY NOTED, IF THE GOC RECIPROCATED PRECISELY TO THAT KIND OF TREATMENT ANY COMPANY UNABLE TO PURCHASE FROM COLOMBIAN DOMESTIC SOURCES WOULD HAVE TO BRING IN ITS OWN FUEL SUPPLY. CONFIDENTIAL

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4. AVIANCA REPS STATED THAT THEY FELT SOLUTION TO THE QUESTION OF FUEL AVAILABILITY AND PRICE DIFFERENTIALS COULD BEST BE FOUND THROUGH CONSULTATIONS UNDER THE BILATERAL. (THIS WAS A POSITION SUGGESTED TO US BY MINISTRY OF FOREIGN RELATIONS IN REPLY TO OUR LAST NOTE--BOGOTA 11092--AND REPEATED BY THEM INFORMALLY A FEW WEEKS AGO.) THEY SUGGESTED THAT SUCH CONSULTATIONS BE HELD BUT THAT IN THE MEANTIME THE "GUN BE REMOVED FROM THEIR

HEAD" OF THE THREAT TO DENY THEM ACCESS TO DOMESTIC FUEL POOL. WITHOUT COMMITTING HIMSELF ON QUESTION OF CONSULTATIONS OR OF REPLYING THERETO, AMBASSADOR ASKED THAT AVIANCA REPS STUDY WHOLE QUESTION WITH GOC TO SEE IF A FORMULA COULD NOT BE FOUND OF REMOVING PRICE DISCRIMINATION IN SOME WAY SATISFACTORY TO THEM.

5. AVIANCA REPS CONFIRMED THAT GOC HAD SETTLED TAX ISSUE AND THAT RESOLUTION WOULD BE FORTHCOMING NEXT WEEK, A STEP

WITH WHICH THEY PROFESSED TO BE PLEASED (REFTEL B).

6. COMMENT: WITH REFERENCE TO TACTICS FOR HANDLING THIS PROBLEM WE WISH TO NOTE: A) THE VOLUME DISCOUNT ISSUE IS NOT A MATTER THAT CAN BE HANDLED IN ISOLATION; IS IS NOT A CLOSED END EQUATION IN WHICH ALL THE LEVERAGE IS ON OUR SIDE AND ALL WE HAVE TO DO IS INCREASE IT UNTIL THE OTHER SIDE GIVES IN; B) THE VOLUME DISCOUNT ISSUE AND ACCESS TO US DOMESTIC FUEL POOL ARE NOT PRECISE EQUIVALENTS AS WAS THE CASE WITH FUEL TAXES WHERE PRECISE RETALIATION WOULD HAVE BEEN BOTH POSSIBLE AND EFFECTIVE; THERE THE EQUITIES ON THE DISCOUNT QUESTION ARE NOT ALL THAT CLEAR, WHEREAS IF WE DENY AVIANCA ACCESS TO THE POOL AS A MEANS OF PRESSURE ON THE PRICE ISSUE WE ESCALATE THE SITUATION BY INTRODUCING NEW FACTORS PERMITTING THE GOC TO CLAIM NEW ARGUMENTS (ACCESS) AND TO COUNTER-ESCALATE; WE THEREFORE RISK BEING INEFFECTIVE ON THE PRICE ISSUE WHILE AT THE SAME TIME OPENING THE WAY TO A SPIRAL THAT WILL LEAVE US WITH A MAJOR PROBLEM IN BILATERAL RELATIONS; C) WHILE WE OBVIOUSLY HAVE THE POWER TO MAKE LIFE DIFFICULT FOR AVIANCA, IN AN EFFORT TO GET BETTER TREATMENT FOR BRANIFF AND PANAM, THE GOC CAN ALSO DISRUPT THE OPERATIONS OF US CARRIERS. BRANIFF, IN PARTICULAR, SHOULD BE DESIROUS OF AVOID THIS KIND OF SPIRALING ESCALATION, WHEN FACED WITH ITS PROBLEMS IN PERU AND THE POSSIBILITY OF WANTING TO ROUTE ITS FLIGHTS TO RIO VIA BOGOTA INSTEAD
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OF LIMA.

U. ACCORDINGLY WE RECOMMEND THAT WE USE THE NEGOTIATION ROUTE THROUGH CONSULTATIONS; IF WE GO THIS ROUTE, IT IS ONLY GOOD TACTICS TO REMOVE THE THREAT OF DENIAL OF ACCESS TO DOMESTIC US FUEL AND TO PROCEED WITH FEA ADJUSTMENT OF THE ALLOCATION FOR THE QUARTER. OTHERWISE IT DOES IN FACT REPRESENT "A GUN TO THE HEAD" WHICH SOURS THE NEGOTIATING ENVIRONMENT. THIS KIND OF PRESSURE IS ALWAYS AVAILABLE TO US LATER IF WE THINK IT NECESSARY.

8. COLOMBIA IS NOT PERU; PRAGMATISM AND A DESIRE TO FIND SOLUTIONS TO PROBLEMS THROUGH PRACTICAL COMPROMISES ARE CHARACTERISTIC OF THE COLOMBIANS. IT WILL BE MORE PROFITABLE, AT THIS STAGE AT LEAST, TO SEEK TO EXPLOIT THESE CHARACTERISTICS,

RATHER THAN CHALLENGE ANOTHER COLOMBIAN CHARACTERISTIC--
DIGNITY- AND PRIDE--BY THREATENING RETALIATION.
VAKY

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